



# RULE-MAKING ORDER

**CR-103 (June 2004)**  
(Implements RCW 34.05.360)

Agency: Department of Revenue

☐ Permanent Rule  
☒ Emergency Rule

Effective date of rule:

**Permanent Rules**

☐ 31 days after filing.  
☐ Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

**Emergency Rules**

☒ Immediately upon filing.  
☐ Later (specify)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

☐ Yes ☒ No If Yes, explain:

**Purpose:** WAC 458-20-185 (Rule 185) explains the provisions of chapter 82.26 RCW, Tax on Tobacco Products. The rule identifies distributors who must pay the tax, the imposition of the tax, applicable penalties, the books and records that must be kept, and when a credit for previously paid tax may be taken.

The Department is revising Rule 185 on an emergency basis to incorporate provisions of chapter 180, Laws of 2005 (SB 6097). This legislation made significant statutory changes to chapter 82.26 RCW, including:

- A requirement that distributors and retailers of tobacco products be licensed;
- Requiring that licensed distributors sell only to licensed retailers;
- Changing the measure of the tax from "wholesale value" to "taxable sales value";
- Imposing recordkeeping requirements on persons that transport tobacco products; and
- Adding new enforcement provisions and transferring enforcement to the Liquor Control Board.

**Citation of existing rules affected by this order:**

Amended: **WAC 458-20-185 Tax on Tobacco Products**

**Statutory authority for adoption:** RCW 82.32.300 & 82.01.060(2)

**Other authority :**

**PERMANENT RULE ONLY (Including Expedited Rule Making)**

Adopted under notice filed as WSR \_\_\_\_\_ on \_\_\_\_\_ (date).

Describe any changes other than editing from proposed to adopted version:

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting: **An analysis was not prepared.**

**EMERGENCY RULE ONLY**

Under RCW 34.05.350 the agency for good cause finds:

- ☒ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- ☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: **An emergency adoption is necessary because a permanent rule cannot be adopted at this time. This rule action will provide needed information to taxpayers and department staff about the new licensing requirements and responsibilities of persons selling tobacco products in this state. The rule being adopted is the same as that adopted on an emergency basis on September 29, 2005 (WSR 05-20-037).**

**Date adopted:** 01/26/06

**NAME (TYPE OR PRINT)**

Janis P. Bianchi

**SIGNATURE**

**TITLE** Manager

Interpretations and Technical Advice Unit

**CODE REVISER USE ONLY**

**Filed: January 26, 2006**

**Time: 10:35 a.m.**

**WSR 06-04-036**

**The above information was input by DOR.**

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	_____	Amended	<u>1</u>	Repealed	_____

**The number of sections adopted at the request of a nongovernmental entity:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in the agency's own initiative:**

New	_____	Amended	<u>1</u>	Repealed	_____
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	<u>1</u>	Repealed	_____